

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SANDRA KAY CABRERA,

Plaintiff,

No. C 06-3820 PJH

v.

NOTICE AND ORDER

ARAMARK SM MANAGEMENT, INC.,

Defendant.

TO ALL PARTIES AND COUNSEL OF RECORD:

In connection with its preparation for and review of defendant's motion for summary judgment, to be heard on July 11, 2007, the court has determined that a preliminary and unresolved issue exists with respect to the court's exercise of subject matter jurisdiction over the instant action. Namely, it is unclear that the prerequisites for diversity jurisdiction – as invoked by defendant in its Notice of Removal – have been satisfied, since neither plaintiff's original or amended complaints, nor the Notice of Removal, concretely set forth the required amount in actual controversy. The court specifically notes that defendant's removal allegations, which state only that plaintiff's damages "could" exceed \$75,000, appear insufficient to overcome plaintiff's express allegation that damages exceed only \$25,000. Moreover, defendant's removal allegations are inconsistent with its argument on the merits of its motion that plaintiff has admitted no damages exist at all.

In view of these observations, the parties are directed to review Valdez v. Allstate Ins. Co., 372 F.3d 1115 (9th Cir. 2004), and the cases cited therein, in preparation for the July 11 hearing, at which the parties will be instructed to address the relevant jurisdictional issues. Defendant may present evidence at the hearing bearing on these issues, should it

1 so desire.

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3 **IT IS SO ORDERED.**

4 Dated: July 6, 2007



PHYLLIS J. HAMILTON
United States District Judge